

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JILL STEIN, et al.
Plaintiffs,

v.

PEDRO A. CORTÉS, in his capacity as
Secretary of the Commonwealth, et al.
Defendants.

CIVIL ACTION

NO. 16-6287 (PD)

DECLARATION OF JONATHAN MARKS

I, Jonathan Marks, declare as follows:

1. I am employed by the Department of State (Department) as the Commissioner of the Bureau of Commissions, Elections and Legislation (BCEL). I have held that position since before the 2016 elections.

2. As part of my duties, I supervise the administration of the Department's duties relating to elections, including oversight of implementation and operation of electronic voting machines by the county boards of elections.

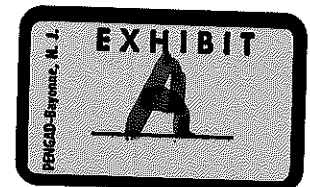
3. Upon the closing of polls after an election, the district election officials lock the voting machines to prevent further casting of votes.

4. The district election officials print the results report and collect the vote totals on removable media, if applicable.

5. A copy of the cast vote records and data audit files are printed and/or extracted.

6. The voting machines are then sealed and they remain sealed, unless unsealed by court order, until at least the certification of election returns.

7. Prior to conducting logic and accuracy testing before the next subsequent election, the voting machines are unsealed, cast vote records and other data from the previous election are cleared, and the voting machines are prepared for logic and accuracy testing.



Marks Declaration

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8. After completion of logic and accuracy testing, the voting machines are sealed for delivery to the polling locations.

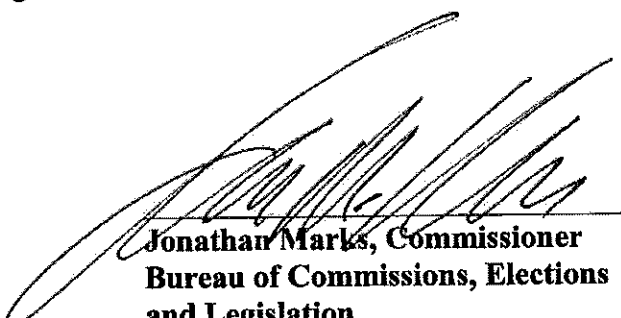
9. No records or data from the previous election is available on or can be retrieved from the voting machines once they've been prepared, tested and sealed for the next subsequent election.

10. The voting machines used in the 2016 general election have been used twice since that election—in both the 2017 municipal primary and 2017 municipal election.

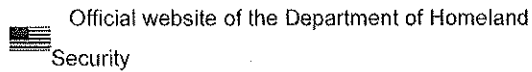
I declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct based upon my personal knowledge.

Pennsylvania,

2/8/2018
Date



Jonathan Marks, Commissioner
Bureau of Commissions, Elections
and Legislation
Department of State



U.S. Department of
Homeland Security

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In an effort to keep DHS.gov current, the archive contains outdated information that may not reflect current policy or programs.

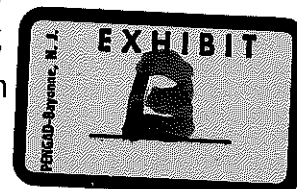
Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector

Release Date: January 6, 2017

For Immediate Release
Office of the Press Secretary
Contact: 202-282-8010

I have determined that election infrastructure in this country should be designated as a subsector of the existing Government Facilities critical infrastructure sector. Given the vital role elections play in this country, it is clear that certain systems and assets of election infrastructure meet the definition of critical infrastructure, in fact and in law.

I have reached this determination so that election infrastructure will, on a more formal and enduring basis, be a priority for cybersecurity assistance and protections that the Department of Homeland Security provides to a range of private and public sector entities. By "election infrastructure," we mean storage facilities, polling places, and centralized vote tabulations locations used to support the election



process, and information and communications technology to include voter registration databases, voting machines, and other systems to manage the election process and report and display results on behalf of state and local governments.

Prior to reaching this determination, my staff and I consulted many state and local election officials; I am aware that many of them are opposed to this designation. It is important to stress what this designation does and does not mean. This designation does not mean a federal takeover, regulation, oversight or intrusion concerning elections in this country. This designation does nothing to change the role state and local governments have in administering and running elections.

The designation of election infrastructure as critical infrastructure subsector does mean that election infrastructure becomes a priority within the National Infrastructure Protection Plan. It also enables this Department to prioritize our cybersecurity assistance to state and local election officials, but only for those who request it. Further, the designation makes clear both domestically and internationally that election infrastructure enjoys all the benefits and protections of critical infrastructure that the U.S. government has to offer. Finally, a designation makes it easier for the federal government to have full and frank discussions with key stakeholders regarding sensitive vulnerability information.

Particularly in these times, this designation is simply the right and obvious thing to do.

At present, there are sixteen critical infrastructure sectors, including twenty subsectors that are eligible to receive prioritized cybersecurity assistance from the Department of Homeland Security. The existing critical infrastructure sectors are:

- Chemical
- Commercial Facilities
- Communications
- Critical Manufacturing
- Dams
- Defense Industrial Base
- Emergency Services
- Energy

- Financial Services
- Food and Agriculture
- Government Facilities
- Healthcare and Public Health
- Information Technology
- Nuclear Reactors, Material, and Waste
- Transportation Systems
- Water and Wastewater Systems

Entities within these sectors all benefit from this designation and work with us closely on cybersecurity. For example, we have developed joint cybersecurity exercises with numerous companies within the communications, information technology, financial services and energy sectors to improve our incident response capabilities. We have also streamlined access to unclassified and classified information to critical infrastructure owners and operators in partnership with information sharing and analysis organizations. Moreover, many critical infrastructure sectors include assets and systems owned and operated by state and local governments, such as dams, healthcare and public health, and water and wastewater systems.

Now more than ever, it is important that we offer our assistance to state and local election officials in the cybersecurity of their systems. Election infrastructure is vital to our national interests, and cyber attacks on this country are becoming more sophisticated, and bad cyber actors – ranging from nation states, cyber criminals and hacktivists – are becoming more sophisticated and dangerous.

Further, our increasingly digital and connected world has reshaped our lives. It has streamlined everyday tasks and changed the way we communicate. But, just as the continually evolving digital age has improved our quality of life, it has also introduced an array of cyber threats and implications.

Cybersecurity continues to be a top priority for DHS, as it is for state and local election officials across the country. This designation enables the states, should they request it, to leverage the full scope of cybersecurity services we can make available to them.

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Topics: [Combat Cyber Crime \(/topics/combat-cyber-crime\)](/topics/combat-cyber-crime/), [Cybersecurity \(/topics/cyber-security\)](/topics/cyber-security/)

Last Published Date: January 6, 2017

From: ST, PRESS

Sent: Friday, February 9, 2018 11:40 AM

To: Murren, Wanda <wmurren@pa.gov>

Subject: Wolf Administration Directs that New Voting Systems in the Commonwealth Provide Paper Record



FOR IMMEDIATE RELEASE
February 9, 2018

Wolf Administration Directs that New Voting Systems in the Commonwealth Provide Paper Record

Harrisburg, PA – The Wolf administration is taking steps to increase the security and auditability of all voting systems used in the commonwealth.

Acting Secretary of State Robert Torres today issued a directive that all commonwealth voting systems purchased from February 9, 2018, forward must employ a voter-verifiable paper ballot or paper record of votes cast.

"This directive will ensure that the next generation of the commonwealth's voting systems conforms to enhanced standards of resiliency, auditability and security," Secretary Torres said. "The current voting equipment in counties works and can be audited. But new voting machines with paper ballots or voter-verifiable paper backup will improve auditability and augment security."

Over the next few years, Pennsylvania's counties will replace much of their aging voting equipment. This directive informs them of the specifications they must consider when purchasing new voting equipment. The department wants to be sure counties move to voting systems that meet their needs for accessibility and security and make audits easier.

A directive requiring a paper record of voting is necessary because:

- It is in line with modern equipment offered by voting system manufacturers;
 - It will allow counties to expand their auditing practices. Auditing of voting equipment is an essential part of guaranteeing a system's integrity and accuracy.
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- It will enable compliance, if future legislation requiring a paper record is enacted at the state or federal level; and
 - It will ensure that Pennsylvania's voting system can achieve resilience by enhancing its ability to withstand and recover more rapidly from disruptions.

"We want to be proactive and replace older voting systems before their hardware and software become obsolete. This directive is a first step in that modernization effort. We will continue to work closely with the General Assembly and county officials to implement reforms that enhance the accessibility and integrity of Pennsylvania's elections," Secretary Torres said.

This directive does not preclude a county from purchasing equipment that supports and maintains a county's current voting system for as long as that system is certified for use in the commonwealth.

MEDIA CONTACT: Wanda Murren, 717-783-1621

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